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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 24th January, 1997/Magha 4, 1918 (Saka)

THE LALIT KALA AKADEMI (TAKING OVER OF MANAGEMENT) ORDINANCE, 1997

No. 10 OF 1997

Promulgated by the President in the Forty-seventh Year of the Republic
of India.

An Ordinance to provide for the taking over of the management of the
Lalit Kala Akademi for a limited period in the public interest and for
matter connected therewith or incidental thereto.

WHEREAS the Lalit Kala Akademi was set up as an apex cultural body in the field
of visual arts by the Government of India by Parliamentary Resolution passed on the
5th August, 1954 to encourage and promote visual arts, paintings, graphics, sculptures,
etc.;

AND WHEREAS the Lalit Kala Akademi was registered as a society under the Societies Registration Act, 1860 (21 of 1860) on the 11th March, 1957;

AND WHEREAS the Akademi has full functional autonomy in the field of its activity, even though the Government of India is the sole-funding agency for the organisation;

AND WHEREAS pursuant to the complaints received with regard to the misuse of funds by the Lalit Kala Akademi from several quarters including from the Hon'ble Members of Parliament, a Committee was set up by the Government of India by Resolution dated the 24th March, 1988 under the Chairmanship of Shri P.N.Haksar to go into the functioning of the Lalit Kala Akademi and the said Committee, after a detailed scrutiny of the affairs and irregularities in the management of the said Akademi, recommended the restructuring of their General Council, Executive Board and the electoral roll, of the artists constituency;

AND WHEREAS, in view of the serious difficulties which have arisen with regard to the management of the Lalit Kala Akademi, it is necessary to take over, for a limited period, the management thereof and it is felt that any delay in taking over the management of the Lalit Kala Akademi would be highly detrimental to the interests and objectives of Akademi;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

Short title
and com-
mencement.

1. (1) This Ordinance may be called the Lalit Kala Akademi (Taking Over of Management) Ordinance, 1997.

(2) It shall come into force at once.

Definitions.

2. In this Ordinance, unless the context otherwise requires,—

(a) "Administrator" means a person appointed as the Administrator under section 4;

(b) "prescribed" means prescribed by rules made under this Ordinance;

(c) "Societies Registration Act" means the Societies Registration Act, 1860, as 21 of 1860, in force in the National Capital Territory of Delhi;

(d) "society" means the Lalit Kala Akademi being a society registered under the Societies Registration Act;

(e) words and expressions used herein and not defined, but defined in the Societies Registration Act shall have the meanings respectively assigned to them in that Act.

CHAPTER II

TAKING OVER OF THE MANAGEMENT OF THE LALIT KALA AKADAMI

3. (1) On and from the commencement of this Ordinance, and for a period of three years thereafter, the management of the society shall vest in the Central Government:

Management
of the
society.

Provided that if the Central Government is of opinion that in order to secure the proper management of the society, it is expedient that such management should continue to vest in the Central Government after the expiry of the said period of three years, it may, from time to time, issue directions for the continuance of such management for such period, not exceeding one year at a time, as it may think fit; so, however, that the total period for which such management shall continue to vest in the Central Government shall not, in any case, exceed five years.

(2) The management of the society shall be deemed to include management of all assets, rights, lease-holds, powers, authorities and privileges and all property, movable and immovable, including lands, buildings, works of art, workshops, projects, stores, instruments, library, machinery, automobiles and other vehicles, cash balances, reserve funds, investments and book debts and all other rights and interests arising out of such property as were immediately before the commencement of this Ordinance in the ownership, possession, power or control of the society, and all such books of account, registers, maps, plans and all other documents of whatever nature relating thereto.

(3) Any contract, whether express or implied, or other arrangement, in so far as it relates to the management of the undertaking and affairs of the society and in force immediately before the commencement of this Ordinance shall be deemed to have terminated on such commencement.

(4) All persons in charge of the management of the society, including persons holding offices as Chairman, Vice-Chairman, Secretary or Honorary Secretary, as the case may be, and members of the General Council, Executive Board, Finance Committee and all other committees of the society immediately before the commencement of this Ordinance shall be deemed to have vacated their offices as such on such commencement.

4. (1) The Central Government shall, as from commencement of this Ordinance, appoint a person as the Administrator of the undertaking for the purpose of taking over the administration thereof and the Administrator shall carry on the management of the undertaking for and on behalf of the Central Government.

Adminis-
trator of
the society.

(2) Subject to the supervision, control and directions of the Administrator, the functions of the finance Committee of the Society, before the commencement of this Ordinance, shall be exercised by an officer of the Central Government, to be appointed by that Government.

(3) The Central Government may issue such directions (including directions as to initiating, defending or continuing any legal proceedings before any court, tribunal or other authority) to the Administrator as to his powers and duties as that Government may deem desirable and the Administrator may apply to the Central Government at any time for instructions as to the manner in which he shall conduct the management of the society or in relation to any matter arising in the course of such management.

(4) Subject to the other provisions of this Ordinance and the rules made thereunder and to the control of the Central Government, the Administrator shall be entitled, notwithstanding anything contained in the Societies Registration Act or in any other law for the time being in force, to exercise, in relation to the management of the society, the powers of the General Council, or, as the case may be, the Executive Board, including the powers to dispose of any property or assets of such society, whether such powers are derived under any law for the time being in force or from the memorandum and rules and regulations of the society or from any other source.

(5) Every person having possession, custody or control of any property forming part of the society shall deliver forthwith such property to the Administrator.

(6) Any person who, on the commencement of this Ordinance has in his possession or under his control any books, papers, works of art or other documents relating to management of the society, including the minutes books containing the resolutions of the persons in charge of the management of the society before the commencement of this Ordinance, the current cheque books relating to the management of the society, any letters, memoranda, notes or other communications between him and the society shall, notwithstanding anything contained in any other law for the time being in force, be liable to account for the books, papers, works of art and other documents (including such minutes books, cheque books, letters, memoranda, notes or other communications) to the Administrator.

(7) Any person in charge of the administration of the society immediately before the commencement of this Ordinance shall, within ten days from that day or within such further period as the Central Government may allow in this behalf, furnish to the Administrator a complete inventory of all the properties and assets (including particulars of book debts and investments and belongings) forming part of the society immediately before the commencement of this Ordinance and of all the liabilities and obligations of the society, in relation to its administration, subsisting immediately before such commencement, and also of all agreements entered into by the society in relation to its administration and in force immediately before such commencement.

(8) The Administrator shall receive from the funds of the society such remuneration as the Central Government may fix.

No right to compensation for premature termination of a contract.

5. Notwithstanding anything contained in any law for the time being in force, no person in respect of whom any contract of management or other arrangement is terminated by reason of the provisions contained in sub-section (3) of section 3 or who ceases to hold any office by reason of the provisions contained in sub-section (4) of that section, shall be entitled to claim any compensation for the premature termination of the contract of administration or other arrangement or for the loss of his office.

Relinquish-
ment of
adminis-
tration of
the society.

6. (1) Notwithstanding anything contained in sub-section (1) of section 3, if, at any time before the expiry of the period referred to in that sub-section, it appears to the Central Government that the purposes of the vesting of the management of the society in that Government have been fulfilled or that for any other reason it is not necessary that the management of the society should remain vested in that Government, it may, by order published in the Official Gazette, relinquish the management of the society with effect from such date as may be specified in the order.

(2) On and from the date specified under sub-section (1), the administration of the society shall vest in the General Council of the society and such management shall be carried on in accordance with the provisions of the Societies Registration Act so, however, that the steps, if any, in relation to the management of the society may be taken after the publication of the order under sub-section (1).

7. (1) Notwithstanding anything contained in the Societies Registration Act or in the memorandum and rules and regulations of the society, but subject to the provisions of sub-section (2) of section 6, so long as the management of the society remains vested in the Central Government,—

Application
of Act 21
of 1860.

(a) it shall not be lawful for the members of the society or any other person to nominate or appoint any person to be a member of the General Council of the society;

(b) no resolution passed at any meeting of the members of the society or at any meeting of the General Council of the society, on or after the commencement of this Ordinance, shall be given effect to unless approved by the Central Government;

(c) no proceeding for the dissolution of the society or for the merger with any other society or for the appointment of a Receiver in respect of its administration shall lie in any court except with the consent of the Central Government.

(2) Subject to the provisions contained in sub-section (1) and subject to such other exceptions, restrictions and limitations, if any, as may be prescribed, the Societies Registration Act shall continue to apply to the society in the same manner as it applied thereto before the commencement of this Ordinance.

CHAPTER III

MISCELLANEOUS

8. Any person who,—

Penalties.

(a) having in his possession or custody or under his control any property forming part of the society, wrongfully withholds such property from the Administrator or any person authorised under this Ordinance, or

(b) wrongfully obtains possession of any such property, or

(c) wilfully retains, or fails to deliver, any property forming part of the society or removes or destroys it, or

(d) wilfully withholds or fails to account for any books, papers, works of art or other documents which may be in his possession or custody or under his control to the Administrator or any person authorised under this Ordinance, or

(e) fails, without any reasonable cause, to furnish information or particulars as provided in sub-section (6) of section 4,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

9. (1) Where an offence under this Ordinance has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by
Companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.—*For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Exclusion
of period
of opera-
tion of
Ordinance.

10. In computing the period of limitation prescribed by any law for the time being in force for any suit or application against any person by the society in respect of any matter arising out of any transaction in relation to its management, the time during which this Ordinance is in force shall be excluded.

Ordinance
to have
overriding
effect.

11. The provisions of this Ordinance or any notification, order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Ordinance or in any instrument having effect by virtue of any law other than this Ordinance or in any decree or order of any court.

Protection
of action
taken in
good faith.

12. (1) No suit, prosecution or other legal proceeding shall lie against the Administrator or any officer of the Central Government or any other person for anything which is in good faith done or intended to be done under this Ordinance.

(2) No suit or other legal proceeding shall lie against the Central Government or the Administrator or any officer of the Central Government or any other person for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Ordinance.

Contracts
in bad
faith may
be cancelled
or varied.

13. (1) If the Central Government is satisfied, after such inquiry as it may think fit, that any contract or agreement entered into at any time within one year immediately preceding the commencement of this Ordinance, between the society and any other person, in so far as such contract or agreement relates to the management of the society, has been entered into in bad faith, or is detrimental to the interests of the society, it may make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) such contract or agreement and thereafter the contract or agreement shall have effect accordingly:

Provided that no contract or agreement shall be cancelled or varied except after giving to the parties to the contract or agreement a reasonable opportunity of being heard.

(2) Any person aggrieved by an order under sub-section (1) may make an application to the High Court at Delhi for the variation or reversal of such order and thereupon such court may confirm, modify or reverse such order.

14. If the Administrator is of opinion that any contract of employment entered into by the society in relation to its management, at any time before the commencement of this Ordinance, is unduly onerous, he may, by giving to the employee one month's notice in writing or the salary or wages for one month in lieu thereof, terminate such contract of employment.

Power to terminate contract of employment.

15. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Ordinance.

Power to make rules.

(2) Every rule made by the Central Government under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

SHANKER DAYAL SHARMA,

President.

K.L. MOHANPURIA,

Secy. to the Government of India.

